IN THE HIGH COURT OF BOMBAY AT GOA

CIVIL REVISION APPLICATION NO.11/2004.

MR. NORMAN EDWARD D'SOUZA, Residentof H. No.306A, Assagao, Bardez, Goa. Represented by his Attorney Mr. Bernard Nazare, residing at House no.145, Bairo Assagao, Bardez, Goa. ... Petitioner/Original Plaintiff.

Versus

DR. LUIZA MARIA RUTH BELINDA FERNANDIS, alias Belinda Ruth Fernandes, major of age, residing at C/o. Carmelina Machado,FRO-SARA, Mangor hill, Vasco, Goa. ... Respondent/Original Defendant.

Mr. F. E. Noronha, Advocate for the petitioner.

Mr. J. E. Coelho Pereira, Senior Advocate with Mr. Vildron Braganza, Advocate for the respondent.

CORAM : **R.S. MOHITE, J.**

DATE : 20th **JULY, 2007.**

ORAL JUDGMENT :

1. The matter was heard at substantial length. However, at the end of the hearing the Advocate for the respondent accepted the position that even after an exparte- decree dated 24.02.2003 is set aside, the interim

temporary injunction order dated 7.5.1998 in the suit, as confirmed by the Additional District Judge will operate pending the hearing and final disposal of the suit. He gives an undertaking on the said injunction order will not be violated at any time. The undertaking is accepted.

2. In view of acceptance of this undertaking the Advocate for the applicant states that he will press this revision only in so far as quantum of costs are concerned. I have perused the impugned order. It does appear that the defendant ought to have been more diligent. The Advocate for the present applicant had to engage the Advocate on numerous dates and also face this revision application.

3. Thus, I propose to award heavy costs in this revision application. In the circumstances, addition to the costs of Rs.2,000/- imposed by the trial Court while setting aside the ex-parte decree, the respondent will pay the costs of Rs.10,000/- in this revision to the present applicant within a period of 4 weeks from today. It is made clear that this order will not come in the way of original defendant while filing any proceeding in respect of any construction being effected by the original plaintiff.

R.S.MOHITE,J.

SMA